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From:	Presidency
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Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2021/1232 of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose of combating online child sexual abuse – Draft position of the European Parliament

Delegations will find in the Annex the report on the above-mentioned proposal, approved by the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament on 31 January 2024.

European Parliament

2019-2024



Plenary sitting

A9-0021/2024

1.2.2024

*****I
REPORT**

on the proposal for a regulation of the European Parliament and of the Council
Amending Regulation (EU) 2021/1232 of the European Parliament and of the
Council on a temporary derogation from certain provisions of Directive
2002/58/EC for the purpose of combating online child sexual abuse
(COM(2023)0777 – C9-0437/2023 – 2023/0452(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Birgit Sippel

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United in diversity

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Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ¶ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council
Amending Regulation (EU) 2021/1232 of the European Parliament and of the Council on
a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose
of combating online child sexual abuse
(COM(2023)0777 – C9-0437/2023 – 2023/0452(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0777),
 - having regard to Article 294(2), Article 16(2) and Article 114(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0437/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee (XXXX)
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0021/2024),
 - having regard to the Report from the European Commission on the implementation of Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number- independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse (COM(2023) 797 final),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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Amendment 1

Proposal for a regulation

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) In order to facilitate compliance with providers' reporting obligations, in particular to ensure the machine-readability and easy accessibility of the reports, the publication format for the reports pursuant to Article 3(1)(f)(vii) of Regulation 2021/1232 should be harmonised.

Amendment 2

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In order to ensure an adequate level of transparency and accountability, as well as to enable comprehensive and comparable reporting, it is necessary to lay down templates concerning the details of the reports that providers of number-independent interpersonal communications services should publish and submit to the competent supervisory authority and to the Commission on the processing of personal data under Regulation 2021/1232.

Amendment 3

Proposal for a regulation

Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) In order to enable effective scrutiny over processing of personal data, providers of number-independent interpersonal communications services

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should use the template and the instructions laid out in the Annex to this Regulation when complying with their reporting obligations pursuant to Regulation (EU) 2021/1232.

Amendment 4

**Proposal for a regulation
Recital 1 c (new)**

Text proposed by the Commission

Amendment

(1c) In view of the Report from the Commission on the implementation of Regulation (EU) 2021/1232^{1a}, it is necessary to thoroughly improve the reporting mechanism to the European Commission from both the Member States and the providers of number-independent interpersonal communication services. It is also important to stress that the European Commission will be obliged to report on the implementation of the Regulation (EU) 2021/1232 in due time after the conclusion of the new period of application.

^{1a} **REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the implementation of Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse**

Amendment 5

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse¹⁰ aims to provide that long-term legal framework. *However, the inter-institutional negotiations on that proposal have not yet been concluded and it is uncertain whether they will be concluded on time for the long-term legal framework, including any amendments to Regulation (EU) 2021/1232 that it may contain, to be adopted, to enter into force and to apply before 3 August 2024.*

¹⁰ Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse, COM/2022/209 final.

Amendment

(2) The proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse¹⁰, *which the Commission adopted on 11 May 2022*, aims to provide that long-term legal framework. *The European Parliament adopted its position and the mandate to enter into inter-institutional negotiations on 22 November 2023 while the Council of the European Union has not reached a general approach yet. Consequently, it is certain that the legislative procedure will be not concluded before 3 August 2024.*

¹⁰ Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse, COM/2022/209 final.

Amendment 6

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) It is important that child sexual abuse online can be effectively combated, *in accordance with the applicable rules of Union law, including the conditions set out in Regulation (EU) 2021/1232, without interruptions pending the conclusion of those inter-institutional negotiations and the adoption entry into force and application of the long-term*

Amendment

(3) It is important that child sexual abuse online can be effectively combated *which demonstrates the need for a permanent framework with a focus on preventive measures. Pending the conclusion of the legislative procedure and the adoption, entry into force and application of the long-term legal framework, a prolongation of Regulation (EU) 2021/1232 is only justified once and*

legal framework.

for a very limited period.

Amendment 7

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) Therefore, Regulation (EU) 2021/1232 should be amended to extend its period of application for *an additional* period of time strictly necessary to adopt the long-term legislation.

(4) Therefore, *given this extraordinary circumstances and the lack of progress with the permanent solution within the Council of the European Union*, Regulation (EU) 2021/1232 should be amended to extend its period of application for a *limited* period of time strictly necessary to adopt the long-term legislation. *It is crucial to note that this extension is exceptional and should not establish a precedent for future extensions. Regulation (EU) 2021/1232 was initially designed as a transitional, temporary instrument serving as a link between the implementation of Directive (EU) 2018/1972, which brought number-independent interpersonal communications services within the scope of Directive 2002/58/EC starting on 21 December 2020, and the establishment of a permanent Regulation addressing the prevention and combatting of child sexual abuse online. Contrary to the co-legislators expectation, the absence of an agreed permanent Regulation requires the extension of the application of Regulation (EU) 2021/1232. However, this extension must not be prolonged any further, with a clear stipulation that it should not undergo a second prolongation, emphasising the unique nature of this circumstance.*

Amendment 8

Proposal for a regulation

Article -1 (new)

Regulation (EU) 2021/1232

Article 2 – point 3

Text proposed by the Commission

Amendment

Article -1

In Article 2, the third paragraph is deleted.

(32021R1232)

Amendment 9

Proposal for a regulation

Article -1 a (new)

Regulation (EU) 2021/1232

Text proposed by the Commission

Amendment

Article -1a

Template for the reporting

- 1. To ensure that the reports are machine-readable, providers shall publish the report in a CSV (comma-separated values) format. The Commission shall make available online the CSV- and XLSX-versions of the template in Annex I.*
- 2. For providers of number-independent interpersonal communications services, the first reporting cycle following the full entry into application date of Regulation (EU) 20XX/XX on 04 August 2024 shall cover the period from 1 January 2024 until 31 December 2024. In case the period from 1 January until 04 August 2024 does not follow the template set out in Annex I to this Regulation, it shall be included in a separate section of the next report.*

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Amendment 10

Proposal for a regulation

Article 1 – paragraph 1

Regulation (EU) 2021/1232

Article 10 – paragraph 2

Text proposed by the Commission

It shall apply until 3 *August* 2026.

Amendment

It shall apply until 3 *May* 2025, *after which it shall elapse permanently.*

Amendment 11

Proposal for a regulation

Annex 1 a (new)

Text proposed by the Commission

Amendment

ANNEX I

Template for providers of number-independent interpersonal communications services

PART I

GENERAL REMARKS

Pursuant to Article 3(1), point f, subparagraph (vii) of Regulation 2021/1232, providers of number-independent interpersonal communications services shall fill in the templates in this Annex.

These are the categories of data under this Regulation:

- (1) the type and volumes of data processed;*
- (2) the specific ground relied on for the processing pursuant to Regulation (EU) 2016/679;*
- (3) the ground relied on for transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, where applicable;*

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- (4) the number of cases of online child sexual abuse identified, differentiating between online child sexual abuse material;
- (5) the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of such complaints;
- (6) the numbers and ratios of errors (false positives) of the different technologies used;
- (7) the measures applied to limit the error rate and the error rate achieved;
- (8) the retention policy and the data protection safeguards applied pursuant to Regulation (EU) 2016/679;
- (9) the names of the organisations acting in the public interest against child sexual abuse with which data has been shared pursuant to this Regulation;

Justification

As Regulation 2021/1232 does not provide a template for the reporting, providers shared different types of information which were not necessarily comparable which makes it necessary to establish a template to fulfil the obligation for reporting by providers pursuant to Article 3(1)(g)(vii) of Regulation (EU) 2021/1232

Amendment 12

Proposal for a regulation ANNEX 1 b (new)

Text proposed by the Commission

Amendment

<i>Category according to Article 3(f)(1)(vii)</i>	<i>Subcategory</i>	<i>Description</i>
<i>1) the type and volumes of data processed</i>		
	<i>Images originating from the EU</i>	

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	<i>Images originating Globally</i>	
	<i>Videos originating from the EU</i>	
	<i>Videos originating Globally</i>	
	<i>Traffic Data relating to User/reportee/account related data</i>	
	<i>Traffic Data relating to Metadata related to content/transactional data</i>	
	<i>Traffic Data relating to Data related to a potential victim</i>	
	<i>Traffic Data relating to abuse operations data</i>	
	<i>Other indicators</i>	
<i>2) the specific ground relied on for the processing pursuant to Regulation (EU) 2016/679</i>		
<i>3) the ground relied on for transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, where applicable</i>		
<i>4) the number of cases of online child sexual abuse identified</i>		
	<i>Images originating from the EU</i>	
	<i>Images originating Globally</i>	
	<i>Videos originating from the EU</i>	
	<i>Videos originating Globally</i>	
	<i>EU User Account involved</i>	

	<i>User Accounts globally</i>	
	<i>Content Items reported to NCMEC</i>	
<i>5) the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of such complaints;</i>		
	<i>EU Accounts that have been restricted for sharing CSAM</i>	
	<i>EU Accounts that have appealed against the restrictions/removal</i>	
	<i>EU Accounts that have lodged a complaint with the internal mechanism</i>	
	<i>EU Accounts that have lodged a complaint with the judicial authority</i>	
	<i>EU Accounts that were reinstated after review</i>	
<i>6) the numbers and ratios of errors (false positives) of the different technologies used;</i>		
<i>7) the measures applied to limit the error rate and the error rate achieved;</i>		
	<i>hash-matching technologies</i>	
	<i>monitoring and quality assessment of the performance of CSA detection tools</i>	
	<i>human review and oversight: samples of</i>	

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	<i>media detected as CSAM by hash-matching technologies are audited by human reviewers/trained analysts</i>	
	<i>flagging and review of high-volume clusters (Meta);</i>	
	<i>deployment of further manual review processes as ongoing hash quality checks</i>	
	<i>human reviewers undergoing specialised robust trainings under guidance of counsel on how to recognise CSAM content to ensure accuracy of human review</i>	
	<i>periodic quality control assessments of human reviewers and the verdicts that are applied</i>	
	<i>other quality control processes to reduce errors and immediate remedy, such as independent hash verification (Google, LinkedIn), human review of each instance of never-before-seen CSAM prior to reporting</i>	
	<i>development and regular review of policies and enforcement strategies by trained subject matter experts on online CSA</i>	

	<i>engagement with NCMEC CyberTipline</i>	
	<i>Other indicators</i>	
8) the retention policy and the data protection safeguards applied pursuant to Regulation (EU) 2016/679;		
	<i>The retention period per data category and purpose</i>	
	<i>Measures to ensure data minimisation</i>	
	<i>Personal data protection safeguards</i>	
9) the names of the organisations acting in the public interest against child sexual abuse with which data has been shared pursuant to this Regulation;		
10) Not captured by any other category's keyword.		

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUTS**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that she has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

Entity and/or person
European Commission, DG Migration and Home Affairs
Permanent Representation of Belgium
Permanent Representation of Germany
European Digital Rights
Meta
Microsoft

The list above is drawn up under the exclusive responsibility of the rapporteur.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Regulation (EU) 2021/1232 of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose of combating online child sexual abuse		
References	COM(2023)0777 – C9-0437/2023 – 2023/0452(COD)		
Date submitted to Parliament	30.11.2023		
Committee responsible Date announced in plenary	LIBE 15.1.2024		
Committees asked for opinions Date announced in plenary	IMCO 15.1.2024	CULT 15.1.2024	FEMM 15.1.2024
Not delivering opinions Date of decision	IMCO 24.1.2024	CULT 11.1.2024	FEMM 14.12.2023
Rapporteurs Date appointed	Birgit Sippel 30.11.2023		
Date adopted	31.1.2024		
Result of final vote	+: 43 -: 19 0: 4		
Members present for the final vote	Katarina Barley, Pietro Bartolo, Theresa Bielowski, Vladimír Bilčík, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Annika Bruna, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Niclaus Fest, Sylvie Guillaume, Andrzej Halicki, Sophia in 't Veld, Marina Kaljurand, Assita Kanko, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Elena Yoncheva		
Substitutes present for the final vote	Delara Burkhardt, Susanna Ceccardi, Gwendoline Delbos-Corfield, Daniel Freund, José Gusmão, Beata Kempa, Jaak Madison, Philippe Olivier, Anne-Sophie Pelletier, Paul Tang, Róza Thun und Hohenstein, Loránt Vincze, Petar Vitanov, Juan Ignacio Zoido Álvarez		
Substitutes under Rule 209(7) present for the final vote	Isabel Benjumea Benjumea, Ana Collado Jiménez, Margarita de la Pisa Carrión, Emmanouil Fragkos, José Manuel García-Margallo y Marfil, Vlad Gheorghe, Svenja Hahn, Petra Kammerevert, Miapetra Kumpula-Natri, Antonio López-Istúriz White, Francisco José Millán Mon, Alin Mituța, Dolors Montserrat, Hermann Tertsch		
Date tabled	1.2.2024		

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FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

43	+
ECR	Jorge Buxadé Villalba, Emmanouil Fragkos, Assita Kanko, Beata Kempa, Margarita de la Pisa Carrión, Hermann Tertsch
ID	Annika Bruna, Patricia Chagnon, Philippe Olivier
PPE	Isabel Benjumea Benjumea, Vladimír Bilčík, Karolína Braunsberger-Reinhold, Ana Collado Jiménez, Lena Düpont, José Manuel García-Margallo y Marfil, Andrzej Halicki, Jeroen Lenaers, Antonio López-Istúriz White, Nuno Melo, Francisco José Millán Mon, Dolors Montserrat, Nadine Morano, Paulo Rangel, Karlo Ressler, Tomas Tobé, Loránt Vincze, Juan Ignacio Zoido Álvarez
Renew	Lucia Ďuriš Nicholsonová, Vlad Gheorghe, Alin Mituța, Maite Pagazaurtundúa, Ramona Strugariu
S&D	Katarina Barley, Pietro Bartolo, Theresa Bielowski, Sylvie Guillaume, Marina Kaljurand, Miapetra Kumpula-Natri, Juan Fernando López Aguilar, Javier Moreno Sánchez, Birgit Sippel, Petar Vitanov, Elena Yoncheva

19	-
ID	Nicolaus Fest
NI	Martin Sonneborn
Renew	Svenja Hahn, Sophia in 't Veld, Moritz Kömer, Róza Thun und Hohenstein
S&D	Petra Kammerevert, Paul Tang
The Left	Clare Daly, Comelia Ernst, José Gusmão, Anne-Sophie Pelletier
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Gwendoline Delbos-Corfield, Daniel Freund, Diana Riba i Giner, Tineke Strik

4	0
ID	Susanna Ceccardi, Jaak Madison, Annalisa Tardino
S&D	Delara Burkhardt

Key to symbols:

+ : in favour

- : against

0 : abstention